



[Billing Code: 4810–31–P]

## **DEPARTMENT OF THE TREASURY**

### **Alcohol and Tobacco Tax and Trade Bureau**

#### **27 CFR Part 9**

**[Docket No. TTB–2015–0008; T.D. TTB–134; Ref: Notice No. 152]**

**RIN 1513–AC21**

### **Expansion of the Willamette Valley Viticultural Area**

**AGENCY:** Alcohol and Tobacco Tax and Trade Bureau, Treasury.

**ACTION:** Final rule; Treasury decision.

**SUMMARY:** The Alcohol and Tobacco Tax and Trade Bureau (TTB) is expanding the approximately 5,360-square mile “Willamette Valley” viticultural area in northwestern Oregon, by approximately 29 square miles. Neither the established viticultural area nor the expansion area is located within any other established viticultural area. TTB designates viticultural areas to allow vintners to better describe the origin of their wines and to allow consumers to better identify wines they may purchase.

**DATES:** This final rule is effective [INSERT DATE 30 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**FOR FURTHER INFORMATION CONTACT:** Karen A. Thornton, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW., Box 12, Washington, DC 20005; phone 202–453–1039, ext. 175.

## **SUPPLEMENTARY INFORMATION:**

### **Background on Viticultural Areas**

#### TTB Authority

Section 105(e) of the Federal Alcohol Administration Act (FAA Act), 27 U.S.C. 205(e), authorizes the Secretary of the Treasury to prescribe regulations for the labeling of wine, distilled spirits, and malt beverages. The FAA Act provides that these regulations should, among other things, prohibit consumer deception and the use of misleading statements on labels and ensure that labels provide the consumer with adequate information as to the identity and quality of the product. The Alcohol and Tobacco Tax and Trade Bureau (TTB) administers the FAA Act pursuant to section 1111(d) of the Homeland Security Act of 2002, codified at 6 U.S.C. 531(d). The Secretary has delegated various authorities through Treasury Department Order 120–01 (dated December 10, 2013, superseding Treasury Order 120-01 (Revised), “Alcohol and Tobacco Tax and Trade Bureau,” dated January 24, 2003), to the TTB Administrator to perform the functions and duties in the administration and enforcement of these laws.

Part 4 of the TTB regulations (27 CFR part 4) authorizes the establishment of definitive viticultural areas and the use of their names as appellations of origin on wine labels and in wine advertisements. Part 9 of the TTB regulations (27 CFR part 9) sets forth the standards for the preparation and submission of petitions for the establishment or modification of American viticultural areas (AVAs) and lists the approved AVAs.

### Definition

Section 4.25(e)(1)(i) of the TTB regulations (27 CFR 4.25(e)(1)(i)) defines a viticultural area for American wine as a delimited grape-growing region having distinguishing features, as described in part 9 of the regulations, and a name and a delineated boundary, as established in part 9 of the regulations. These designations allow vintners and consumers to attribute a given quality, reputation, or other characteristic of a wine made from grapes grown in an area to the wine's geographic origin. The establishment of AVAs allows vintners to describe more accurately the origin of their wines to consumers and helps consumers to identify wines they may purchase. Establishment of an AVA is neither an approval nor an endorsement by TTB of the wine produced in that area.

### Requirements

Section 4.25(e)(2) of the TTB regulations (27 CFR 4.25(e)(2)) outlines the procedure for proposing an AVA and provides that any interested party may petition TTB to establish a grape-growing region as an AVA. Petitioners may use the same process to request changes involving established AVAs. Section 9.12 of the TTB regulations (27 CFR 9.12) prescribes standards for petitions for modifying established AVAs. Petitions to expand an established AVA must include the following:

- Evidence that the area within the proposed expansion area boundary is nationally or locally known by the name of the established AVA;

- An explanation of the basis for defining the boundary of the proposed expansion area;
- A narrative description of the features of the proposed expansion area that affect viticulture, such as climate, geology, soils, physical features, and elevation, that make the proposed expansion area similar to the established AVA and distinguish it from adjacent areas outside the established AVA boundary;
- The appropriate United States Geological Survey (USGS) map(s) showing the location of the proposed expansion area, with the boundary of the proposed expansion area clearly drawn thereon; and
- A detailed narrative description of the proposed expansion area boundary based on USGS map markings.

### **Petition to Expand the Willamette Valley AVA**

TTB received a petition from Steve Thomson, the executive vice president of King Estate Winery in Eugene, Oregon, proposing to expand the established “Willamette Valley” AVA in northwestern Oregon. The Willamette Valley AVA (27 CFR 9.90) was established by T.D. ATF–162, which was published in the **Federal Register** on December 1, 1983 (48 FR 54221). The Willamette Valley AVA covers approximately 5,360 square miles in Benton, Lane, Linn, Clackamas, Lincoln, Marion, Multnomah, Polk, Tillamook, Washington, and Yamhill Counties. Neither the proposed expansion area nor the established AVA are located within any other established AVA.

The proposed expansion area is located in Lane County and is adjacent to the southern tip of the established Willamette Valley AVA boundary and covers

approximately 29 square miles. The King Estate Winery operates one of the two commercial vineyards that cover a total of 508 acres within the proposed expansion area, and provided information that the second vineyard owner also supports the proposed expansion. The King Estate Winery and the second vineyard each have a winery within the proposed expansion area. A third winery is also included in the proposed expansion area; however, it does not operate a vineyard within the proposed expansion area. The vineyards and wineries did not exist at the time the Willamette Valley AVA was established in 1983 and currently are not within any AVA. The petition included letters from the president of the Willamette Valley Wineries Association and the president of the Oregon Winegrowers Association in support of the proposed expansion.

According to the petition, the topography, soils, and climate of the proposed expansion area are similar to those of the established Willamette Valley AVA. The petition states that both the proposed expansion area and the established AVA are composed of rolling hills and valleys between the Coast Range Mountains to the west and the Cascade Mountains to the east. Elevations within the proposed AVA range from 500 feet to 1,200 feet, which is within the range of elevations found in the established AVA. By contrast, the region outside both the proposed expansion area and the Willamette Valley AVA is marked by mountainous terrain with higher elevations. The proposed expansion area and the established AVA are also within the watersheds of both the Willamette and the Siuslaw Rivers, whereas the region to the south of both

the proposed expansion area and the established AVA drains exclusively into the Umpqua River.

The petition describes the soils within both the proposed expansion area and the Willamette Valley AVA as having a “xeric” moisture regime of soil classification, meaning that they typically retain low amounts of moisture and generally have depleted their moisture reserves by the end of the growing season. Common soil series within both the proposed expansion area and the established AVA include Bellpine, Jory, Willakenzie, Dupee, and Peavine. The petition states that although Peavine soils are found outside the proposed expansion area and the established AVA, other soils such as Blanchley, Honeygrove Complex, Bohanon, Preacher, Klickitat, Kirney, and Digger Complex soils are also present and are not found in either the proposed expansion area or the Willamette Valley AVA. Additionally, the soils of the surrounding region are described as having an “udic” moisture regime of soil classification, meaning the soils typically retain even amounts of water throughout the year.

The petition compared the climate of the proposed expansion area to the climates of several established AVAs that are also located within the larger Willamette Valley AVA, as well as to the climate of the Umpqua Valley AVA (27 CFR 9.89), which is adjacent to the southernmost point of the Willamette Valley AVA and south of the proposed expansion area. The petition shows that the annual mean temperature, growing season precipitation amounts, and growing degree day accumulations within the proposed expansion area are slightly lower than those of the AVAs within the Willamette Valley AVA. However, the climate

data from the proposed expansion area is more similar to the climate data from the AVAs located within the Willamette Valley AVA than to the climate data from the Umpqua Valley AVA.

### **Notice of Proposed Rulemaking and Comments Received**

TTB published Notice No. 152 in the **Federal Register** on June 18, 2015 (80 FR 34864), proposing to expand the Willamette Valley AVA. In the document, TTB summarized the evidence from the petition regarding the name, boundary, and distinguishing features for the proposed expansion area. For a detailed description of the evidence relating to the name, boundary, and distinguishing features of the proposed expansion area, and for a comparison of the distinguishing features of the proposed expansion area to the surrounding areas and to the established Willamette Valley AVA, see Notice No. 152.

In Notice No. 152, TTB solicited comments on the accuracy of the name, boundary, climatic, and other required information submitted in support of the petition. The comment period closed on August 17, 2015. TTB received two comments in response to Notice No. 152. The first comment (Comment 1) did not directly address the proposed expansion of the Willamette Valley AVA and, instead, issued a general caution against establishing too many AVAs in any given area, as rapid or uncontrolled growth may cause long-term harm to the economy, quality of life, and agricultural diversity of the community. TTB considers this comment to be outside the scope of the proposed rule.

The second comment (Comment 2) identified two typographical errors in the proposed regulatory text of Notice No. 152. The commenter noted that in

paragraph (c)(17) of the proposed regulatory text, Oregon State Highway 99 was incorrectly referred to as Interstate Highway 99. TTB agrees that the State highway was incorrectly designated in the proposed regulatory text, and the correction has been made in the final rule text. The commenter also stated that U.S. Highway 26 was incorrectly identified as Interstate Highway 26 in redesignated paragraph (c)(32). Although TTB did not propose to change the text of redesignated paragraph (c)(32) in Notice No. 152, the commenter is correct that the Federal highway is improperly designated in that paragraph as it currently appears in the Code of Federal Regulations. Therefore, TTB is also making that edit in the final rule text of this document.

#### **TTB Determination**

After careful review of the petition and comments received, TTB finds that the topography, soil, and climate evidence provided by the petitioner sufficiently demonstrates that the proposed expansion area is similar to the established Willamette Valley AVA and should also be recognized as part of that AVA. Accordingly, under the authority of the FAA Act, section 1111(d) of the Homeland Security Act of 2002, and parts 4 and 9 of the TTB regulations, TTB expands the 5,360-square mile “Willamette Valley” AVA to include the approximately 29-square mile expansion area as described in Notice No. 152, effective 30 days from the publication date of this document.

In the regulatory text of this final rule, TTB is also correcting a typographical error that appeared in proposed paragraph (c)(17) and a second typographical error that was identified by a commenter in redesignated

paragraph (c)(32). These corrections will properly identify two roads as a State highway and a Federal highway, respectively. No other changes have been made to the regulatory text.

### **Boundary Description**

See the narrative description of the boundary of the AVA expansion in the regulatory text published at the end of this final rule.

### **Maps**

The petitioner provided the required maps, and they are listed below in the regulatory text.

### **Impact on Current Wine Labels**

Part 4 of the TTB regulations prohibits any label reference on a wine that indicates or implies an origin other than the wine's true place of origin. For a wine to be labeled with an AVA name or with a brand name that includes an AVA name, at least 85 percent of the wine must be derived from grapes grown within the area represented by that name, and the wine must meet the other conditions listed in § 4.25(e)(3) of the TTB regulations (27 CFR 4.25(e)(3)). If the wine is not eligible for labeling with an AVA name and that name appears in the brand name, then the label is not in compliance, and the bottler must change the brand name and obtain approval of a new label. Similarly, if the AVA name appears in another reference on the label in a misleading manner, the bottler would have to obtain approval of a new label. Different rules apply if a wine has a brand name containing an AVA name that was used as a brand name on a label approved

before July 7, 1986. See § 4.39(i)(2) of the TTB regulations (27 CFR 4.39(i)(2)) for details.

The expansion of the Willamette Valley AVA will not affect any other existing AVA, and bottlers using “Willamette Valley” as an appellation of origin or in a brand name for wines made from grapes within the established Willamette Valley AVA will not be affected by this expansion. The expansion will allow vintners to use “Willamette Valley” as an appellation of origin for wines made primarily from grapes grown within the expansion area if the wines meet the eligibility requirements for the appellation.

### **Regulatory Flexibility Act**

TTB certifies that this regulation will not have a significant economic impact on a substantial number of small entities. The regulation imposes no new reporting, recordkeeping, or other administrative requirement. Any benefit derived from the use of an AVA name would be the result of a proprietor’s efforts and consumer acceptance of wines from that area. Therefore, no regulatory flexibility analysis is required.

### **Executive Order 12866**

It has been determined that this rule is not a significant regulatory action as defined by Executive Order 12866 of September 30, 1993. Therefore, no regulatory assessment is required.

### **Drafting Information**

Karen A. Thornton of the Regulations and Rulings Division drafted this final rule.

## List of Subjects in 27 CFR Part 9

Wine.

### The Regulatory Amendment

For the reasons discussed in the preamble, TTB amends title 27, chapter I, part 9, Code of Federal Regulations, as follows:

#### **PART 9—AMERICAN VITICULTURAL AREAS**

1. The authority citation for part 9 continues to read as follows:

**Authority:** 27 U.S.C. 205.

#### **Subpart C—Approved American Viticultural Areas**

2. Section 9.90 is amended by revising paragraph (b) introductory text, adding paragraph (b)(4), removing paragraphs (c)(11) through (13), redesignating paragraphs (c)(14) through (32) as paragraphs (c)(18) through (36), revising newly redesignated paragraph (c)(32), and adding paragraphs (c)(11) through (17) to read as follows:

##### **§ 9.90 Willamette Valley.**

\* \* \* \* \*

(b) Approved maps. The approved maps for determining the boundaries of the Willamette Valley viticultural area are three U.S.G.S. Oregon maps scaled 1:250,000 and one U.S.G.S. Oregon map scaled 1:24,000. They are entitled:

\* \* \* \* \*

(4) “Letz Creek, OR” (revised 1984).

(c) \* \* \*

(11) Northeast, then southeast along the 1,000 foot contour line approximately 12 miles to its intersection with the R5W/R6W range line;

(12) South along the R5W/R6W range line approximately 0.25 mile to the intersection with the 1,000 foot contour line;

(13) Generally southeast along the meandering 1,000 foot contour line, crossing onto the Letz Creek map, to a point on the 1,000 foot contour line located due north of the intersection of Siuslaw River Road and Fire Road;

(14) South in a straight line approximately 0.55 mile, crossing over the Siuslaw River and the intersection of Siuslaw River Road and Fire Road, to the 1,000 foot contour line;

(15) Generally southeast along the meandering 1,000 foot contour line, crossing onto the Roseburg, Oregon map, to the intersection of the 1,000 foot contour line with the Lane/Douglas County line;

(16) East along the Lane/Douglas County line approximately 3.8 miles to the intersection with the 1,000 foot contour line just east of the South Fork of the Siuslaw River;

(17) Generally north, then northeast along the 1,000 foot contour line around Spencer Butte, and then generally south to a point along the Lane/Douglas County line 0.5 mile north of State Highway 99;

\* \* \* \* \*

(32) North along R5E/R6E 10.5 miles to a point where it intersects the Mount Hood National Forest boundary (approximately three miles north of U.S. Highway 26);

\* \* \* \* \*

Signed: February 8, 2016.

**John J. Manfreda,**

Administrator.

Approved: February 11, 2016.

**Timothy E. Skud,**

Deputy Assistant Secretary  
(Tax, Trade, and Tariff Policy).

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